

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING: Friday, October 26, 2001, 2:00 p.m., City Council Chambers,
City County Building, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE: **Members:** Gene Carroll, Tom Wanser, and George Hancock

Others: Rodger Harris (Bldg & Sfty), Rick Peo and
Tonya Skinner (City Law Dept.), Brian Will and
Missy Minner (Planning Dept.), applicants and
other interested parties.

STATED PURPOSE

OF THE MEETING: Regular Monthly Meeting of the City Board of Zoning Appeals

Chair Hancock called the meeting to order and requested a motion approving the minutes of the September 28, 2001 meeting. Motion for approval made by Carroll, seconded by Wanser. Motion for approval carried 3-0, Carroll, Wanser, and Hancock voting 'yes'; Wibbels and Krieser absent.

City Board of Zoning Appeals No. 2316

Requested by Brian Carstens, on behalf of Steve Nelson, for a variance to the front yard setback on property located at 1201 B Street.

PUBLIC HEARING

October 26, 2001

Members present: Wanser, Hancock, and Carroll

Brian Carstens appeared on behalf of Steve Nelson who is the owner of the property at 1201 B Street. He explained that the existing single family dwelling is vacant and has been red tagged. Improvements are needed inside to bring the property up to code. They are in an historic district. They have been before the Historic Preservation Commission which approved the proposed 4 unit apartment. This originally started with a street and alley vacation to vacate the east 20' of South 12th Street to make the lot wider and eliminate the need for a variance. The right of way in that area is 100' wide. The Historic Preservation Commission granted approval to remove the existing house and build the proposed structure because it was believed that they would fall under an exception to the zoning ordinance that would allow them to put it where they wanted to. There is a rule that would have allowed them to build to the 6' setback line the neighboring property is built to had the main buildings not been more than 115' apart.

They are requesting the variance in lieu of the street and alley vacation. They expect that they may have to move the sidewalks. The existing house is located 6' off the property line. That is the proposed location for the new dwelling. The variance on the parking is for the north half of the handicapped stall as well as the handicapped ramp. They probably won't be occupied, so visually that is not much worse than what would be allowed by the ordinance.

The owner needs to have four units on the property in order for it to be financially viable. The narrow lot is the unusual circumstance. Historic Preservation Commission is comfortable with the concept of the design.

Wanser observed that the houses to the south of this property appear to be in the setback. Carstens stated that the houses to the south are in the same position they are proposing for their building.

Wanser asked if all the original plats have that wide street right of way. Carstens knew that 11th, 12th, D and B Streets all have 100' right of way.

Hancock asked why they could not build a duplex. Carstens explained that a 4-unit complex is needed to make this a viable project because of the cost of tearing down the existing structure and the requirements promised to the Historic Preservation Commission. The property has been vacant a little over a year, the owner has been trying to figure out what to do with it in that time.

With no one further appearing, the public hearing was closed.

ACTION

October 26, 2001

Members present: Wanser, Hancock, and Carroll

Carroll moved approval, seconded by Wanser.

Wanser was in favor of approving this because this problem is unique to history due to the large right of way. This will be an improvement to the neighborhood. The houses in that area all seem to be in the setback along the numbered (north / south) streets. This seems to be in unison with the neighborhood.

Carroll added that the applicant has made the necessary improvements to fit in with the neighborhood and that the structure was approved by the Historic Preservation Commission.

Hancock was unable to find the peculiar, exceptional, and unusual circumstance. Carroll stated that this is a corner lot with a very wide right of way and it is the viability of the lot. Wanser added that it fits with the neighborhood setback.

Motion for approval failed 2-1; Carroll and Wanser voting 'yes'; Hancock voting 'no'; Wibbels and Krieser absent. This item will be held over for action at the next meeting.

City Board of Zoning Appeals No. 2317

Requested by Ken Ferguson for a variance to the side yard setback on property located at 4240 NW 84th Street.

PUBLIC HEARING

October 26, 2001

Members present: Wanser, Hancock, and Carroll

Ken Ferguson, owner of 4240 NW 84th Street appeared. He would like to build garage on his property. He needs to have the 26.5' setback reduced to 6' because that is the only entry to the property off of 84th Street. The other side has trees and farm ground. The well, septic tank and power lines are in the back yard, so he can't put it there. They have tried to lay this out every way they can, but there is not enough room to build the garage, even though he has almost 6 acres of land. There are no neighbors on either side of him that this would effect. The garage that is attached to the house is not big enough to get his truck into.

Wanser asked if they are planning to screen the garage on the south. Ferguson indicated that they were not planning additional screening at this time.

Various clarifications were discussed with regard to the property lines. Ferguson was able to answer the members questions by pointing to areas on an aerial photograph.

With no one further appearing, the public hearing was closed.

ACTION

October 26, 2001

Members present: Wanser, Hancock, and Carroll

Carroll moved denial, seconded by Hancock.

Carroll was of the opinion that with more than five acres, there seems to be more than enough room to build a garage.

Hancock stated that the area is platted as individual lots that will some day be built on. It is not probable that the lack of close neighbors will continue.

Wanser asked in so much as this is zoned AG and is obviously an AG location, if this was a 20 acre property would this be an issue. Harris stated that a building permit would not be required in the 3-mile area if this met the definition of a farmstead. However a recent opinion would indicate that they would still be required to meet the zoning requirements. Peo explained that the rule is that if you have a farmstead which requires 20 acres and the ability to produce a certain amount of money each year in agriculture products, then you are not subject to building code regulations as to method of construction, electrical wiring, plumbing, and heating. That restriction is only applicable to minimum building code requirements as opposed to zoning requirements. There is no exclusion for farmsteads in the City zoning jurisdiction. The zoning setback requirements would have to be met even though a building permit might not be required for the building.

Hancock stated that he was unable to find anything that changed the restrictions based on the size of the premises. Peo indicated that the zoning requirements for the AG district would have to be met.

Motion for denial carried 3-0; Carroll, Hancock, and Wanser voting 'yes'; Wibbels and Krieser absent.

There being no further business, the meeting adjourned at 2:27 pm.